

CONWAY PLANNING BOARD

MINUTES

JULY 27, 2023

PAGES

1 Work Session

CONWAY PLANNING BOARD

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A meeting of the Conway Planning Board was held on Thursday, July 27, 2023, beginning at 6:00 pm at the Conway Town Office, Conway, NH. Those present were: Chair, Benjamin Colbath; Selectmen's Representative, Steve Porter; Vice Chair, Ailie Byers; Secretary, Erik Corbett; Eliza Grant; Mark Hounsell; Town Planner, Ryan O'Connor; and Alternate Ted Phillips.

WORK SESSION

The Board had a general discussion regarding the Permitted Use Table in the Zoning Ordinance (see attachments) and a report of the ACLU Study Committee was given.

Meeting was adjourned at 7:25 pm.



TOWN OF CONWAY

23 MAIN STREET + P.O. BOX 2680 + CONWAY, NEW HAMPSHIRE 03818

CONWAY PLANNING BOARD

Thursday, July 27, 2023 beginning at **6:00 pm**
Conway Town Office, 23 Main Street, Conway, NH

(603) 447-3811
WWW.CONWAYNH.ORG

AGENDA

1. WORK SESSION

- General Zoning Discussion
- ACLU Study Committee Report

APPROPRIATE CASINO LAND USE AD HOC STUDY COMMITTEE FOR INCLUSION TO THE TOWN OF CONWAY'S ZONING ORDINANCES.

Minutes

AD HOC

A.C.L.U. Study Committee

July 18, 2023

Location: Conference room at Conway Rec

Scheduled time: 1300 hour

Appointed members: Chairman Mark Hounsell, Chairman, Erik Corbett, and Eliza Grant

The meeting was called to order 1304 hour. In attendance when the meeting was called to order were Committee Chairman Mark Hounsell (MH), Erik Corbett (EC), and Eliza Grant (EG). Conway Daily Sun reporter, Daymond Steer (DS) arrived shortly thereafter.

There was a free-flowing open discussion that began with the recognition that the charge to the committee is to **investigate if there exists a need to write an appropriate zoning ordinance and definitions for the planning board's consideration.**

It was noted and agreed that the AD HOC committee is not considering or discussing any specific application for a casino or gaming application currently before the town.

Citing the TABLE OF PERMITTED USES, the lack of any existing zoning ordinance definition for gambling, casino, or charitable gaming, the lack of these terms as listed uses in the TABLE OF PERMITTED USES, as well as the citation of gambling as a social evil in the current CONWAY TOWN CHARTER, it is the general unanimous opinion of the AD HOC committee **casinos of any sort, including charitable gaming, are NOT a permitted use in Conway. *The matter of legalized casinos in Conway is about our civil and constitutional right to self-determination. The state has implemented land use demands on Conway contrary to our local zoning ordinance and our town charter.***

A legal opinion regarding the strength of the committee's opinion is needed. MH will ask Town Manager Eastman if the committee could confer with town council and/or if the committee could make inquiries to the NHMA. MH will seek input on the matter from others as well.

EG feels that a definition of charitable gaming that aligns with state statutes may be worthwhile including in the zoning ordinance. We may want to consider explicitly disallowing this use, even though it is implicitly disallowed by not being recognized in the zoning ordinance.

The discussion turned to in what zone should gambling establishments be permitted "if" it is determined the town needs to make accommodations for them? MH restated his opinion it should be in Industrial 2 (I-2). EG noted that in all existing zones private homes are present. It becomes essential that we consider the impact of residents that exist in I-2 before we establish I-2, or any other zone, as acceptable.

After addressing inquiries from DS the meeting, the committee agreed to reconvene in the Conference room at Conway Rec on either Monday, July 24 before noon, or Tuesday, July 25 at 1300 hour. MH will confirm the date and time.

Adjourned at 1415 hour

These minutes were unanimously approved by the committee via email on 07/20/2023.

Holly L. Whitelaw

From: Ailie Byers <ailieplanning@gmail.com>
Sent: Tuesday, July 25, 2023 7:36 AM
To: Holly L. Whitelaw
Subject: Re: PB Work Session July 27th

Holly,
Can I have you share this with the PB before our meeting? Thanks

Team - I have a MASSIVE list of ordinances and ideas we have talked about since the last warrant. I am not sure you want them all. If so I would e happy to pass on.

Eliza and I talked thru some things, and we would love to have a generative discussion on the Permitted Use Table

If time allows, I would also like to discuss

- 190.13.K.11 Kennel - Increase setbacks for those that border residential properties
- 190.27.a.1 Shoreline protected overlay district - extend 100 ft (from 300 to 400)
 - Buffer 300-200 put one in- there is no buffer at this time I believe
 - No setback- add in one?
- §110-22 – Parking Lots
 - - Landscaping in parking lots
- §110-29 Site Plan Review (design standards) - arborvitaes
 - Landscaping requirements
- EV Charging stations - commercial zones required if over X sq ft or parking # of spaces
- Food Truck Ordinance

Thanks,
Ailie

On Thu, Jul 20, 2023 at 3:56 PM Holly L. Whitelaw <hwhitelaw@conwaynh.org> wrote:

Board Members,

Attached is the agenda for the July 27th work session, and minutes from the July 18th ACLU Study Committee meeting.

See you on the 27th.

Thanks,

Holly

Holly L. Whitclaw, Planning Assistant

FILE

Current items listed in the table:

- Accessory buildings
 - **ACCESSORY BUILDING OR USE:** A building or use subordinate and customarily incidental to the main building or use on the same lot.
- Accessory storage yards
 - No definition
- Accessory uses, nonresidential
 - Current definition of accessory building or use listed above
 - Nonresidential is not defined in the code despite being used 15 times
- Accessory uses, residential
 - Current definition of accessory building or use listed above
 - Current residential definition:
 - **Residential Dwelling Unit (NEW)** – A single unit providing a room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating for the exclusive use for one or more persons living as a household.
 - **RESIDENTIAL/DWELLING UNIT-** A single unit providing complete and independent living facilities for one or more persons living as a household, including provisions for living, sleeping, eating, cooking, and sanitation.
- Agriculture- agriculture is not defined
 - Buildings
 - **BUILDING-** An independent structure having a roof and any extensive additions thereto. It shall include a house trailer and a mobile home when used as a residential unit, but shall not include a travel trailer used as a temporary residence incidental to travel, recreation or vacation and not permanently hooked up to facilities necessary for usual year-round occupancy.
 - Crops
 - No definition
 - Domestic animals
 - **DOMESTIC ANIMALS-** Dogs, cats, non-poultry birds, reptiles, exotics, ferrets, descended skunks, nine or fewer rabbits and nine or fewer fur-bearers other than rabbits.
 - Domestic farm animals
 - **DOMESTIC FARM ANIMALS-** Horses, ponies, cattle, swine, deer, bison, greater than nine fur-bearers, sheep, goats, llamas, ratites, poultry or greater than nine rabbits.
 - Forestry and accessory uses
 - No definition of forestry
 - Farm and logging roads
 - No definition of farm or logging
 - Tree farming
 - No definition of tree farming
 - Excavation (noncommercial)

- **EXCAVATION**- A land area which is used for the commercial taking of earth, including all slopes.
 - No definition of noncommercial
- Athletic/Sports facilities
 - No definition of athletic or sports facilities
- Athletic/Sports buildings
 - No definition of athletic or sports buildings
- Automobile junkyards
 - No definition, no definition of junkyard in general
- Automotive painting
 - No definition
- Automotive repair
 - No definition
- Automotive service
 - No definition
- Beaches
 - No definition
- Boardinghouses
 - **Boarding House/Rooming House** – A dwelling operated as a business or on a not-for-profit basis providing rooms for rent on a daily, weekly, or other basis. The rooms do not include cooking facilities and thus are not individual dwelling units. Meals may or may not be provided by the owner/operator. Such rooms generally serve as the primary residence (of whatever duration) for the occupants though they may be available also as lodging for visitors.
 - **BED-AND-BREAKFAST**- Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation. This dwelling shall also be the full-time, permanent residence of its owner; otherwise it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.
- Boardinghouses, owner-occupied
 - **OWNER-OCCUPIED LODGING HOUSE AND/OR OWNER-OCCUPIED BOARDINGHOUSE**- Any place consisting of a room or group of rooms located on one premises where regular, nontransient-type accommodations for sleeping or living purposes, together with meals, are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.
- Boat landings and access areas
 - No definition
- Bulk chemical storage facilities
 - No definition
- Business development parks
 - 190.24.10 provides the following guidance, but there is not a listed definition in the definition section of the code

no noise, light or other adverse impact outside the building shall be caused by the amusements or their use. Site plan review approval by the Planning Board shall be required.

- Commercial amusements, outdoor
 - See commercial amusement facility definition above
 - From 190.20.M:
 - Outdoor commercial activities such as commercial amusement facilities, drive-up windows, remote outdoor speaker systems, interactive signs, menu boards or other similar devices with speakers, any of which operate in close proximity to residential property, constitute a nuisance due to unconfined noise and light, as well as operating hours that are not compatible with the residential environment.
 - (1) A commercial amusement facility, as defined herein, that operates outdoor amusements and that seeks to expand that use under § 190-30, Nonconformity, shall locate said amusements at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.
 - (2) Commercial activities that operate drive-up windows, remote outdoor speakers, interactive signs, menu boards or other similar devices with speakers that permit customers or the general public to communicate with personnel within the commercial building or other location on the commercial property shall be at least 300 feet from the closer of the residential zone boundary or from the nearest residential property line, and if the time of operation begins before 9:00 a.m. or ends after 5:00 p.m. the separation distance shall be at least 600 feet. Substantial effective buffering against sound and light shall be provided in either case. These setbacks may be waived by the Planning Board during the site plan review process if the property abuts the Floodplain Conservation District and it can be shown that there will be no sound or light impact on residential use.
- Commercial campgrounds
 - No definition, no definition of campground
- Commercial golf facilities
 - No definition, but the following guidance is provided in 190.13.5:
 - **Commercial golf facilities.** A special exception may be granted for traditionally full-sized golf courses and those accessory uses traditionally associated with this primary use, such as a clubhouse with a lounge and restaurant facility, professional shop, golf practice range, tennis courts and swimming pools, but not to include miniature golf, provided that the specific site is an appropriate location

for such use, not only in context with the land to be dedicated to such use but in context with the surrounding land uses as well. The applicant shall dedicate a specific parcel(s) to the proposed facility, which shall not be used for residential density. In order to determine this, the following criteria shall be evaluated:

- (a) Property values. The applicant shall present information by a certified appraiser indicating that there will be no negative impact on abutting properties as a result of the proposed special exception;
- (b) Traffic. No traffic hazard will be created and traffic access will not alter the character of the neighborhood. The main access point shall be from an arterial road or collector road and not from neighborhood streets. The Zoning Board of Adjustment may consider the comments of the Town Planning Director in evaluating the traffic study. A traffic study shall be completed that shows the impact of the proposed development in its entirety on the nearest signalized intersection(s). For intersections that are of an overall level of service (herein "LOS") C or better, the LOS at the nearest signalized intersection(s) shall not fall below LOS C during the a.m. and p.m. peak hours as a result of the development. If LOS C cannot be maintained, the applicant shall make such changes as are necessary to bring the intersection to LOS C, provided that such improvements are acceptable to the Zoning Board of Adjustment. The applicant may choose to reduce the development so as to produce an acceptable LOS. If the LOS is already below C (D, E or F), the project shall only be approved if the LOS is brought up to D. The applicant may choose to reduce the development so as to produce an acceptable LOS;
- (c) Nuisance/Hazards. The Zoning Board of Adjustment shall review the operation of the development, including noise, odors and any hazards associated with the use and location. If the Zoning Board of Adjustment determines that any hazards or nuisances cannot be overcome and are not customarily found in a residential neighborhood, the proposed use shall be denied;
- (d) Adequacy of private/municipal facilities. The Zoning Board of Adjustment shall review the proposed facilities, including drainage, sewer/septic, water, electric and other utilities, to ensure adequate provisions to meet the needs of the proposed development. It may consider the opinion of the Town Engineer in making this determination;
- (e) Design and architecture. The design and architecture of the proposed structure shall be reviewed by the Zoning Board of Adjustment to determine its compatibility with abutting residential structures. The scale, height, color and detail shall be similar to and/or aesthetically compatible with residential structures;
- (f) Lighting. The lighting plan shall be submitted to the Zoning Board of Adjustment for approval. No direct glare shall be permitted. Parking areas and walkways may be illuminated by luminaires so hooded or shielded as to not extend significantly beyond the parking and walkway areas;
- (g) Hours of operation. Hours of operation will be appropriate so as to not interfere with the abutting residential neighborhood by means of excess traffic in

- **Farm and nursery stands.** Farm and nursery stands for selling indigenous produce or plants are considered temporary structures and are permitted, provided that:
 - (1) Farm stands shall not exceed 1,200 square feet of gross floor area unless granted site plan review approval by the Planning Board.
 - (2) Three off-street parking spaces shall be required to be provided for structures up to 100 square feet in size. Additional parking shall be required at the rate of one space per 200 square feet over 100 square feet.
 - (3) Wall signs shall not exceed 10 square feet in size. One portable A-frame sign per lot, not to exceed six square feet, shall be allowed to be displayed during business hours only.
 - (4) All structures, parking areas and signs shall meet the setback requirements established herein.
- Fill
 - No definition
- Hazardous waste facilities
 - **HAZARDOUS MATERIALS-** Those chemicals or substances which are physical hazards or health hazards as defined in the currently adopted version of the State Building Code, whether the materials are in a usable or waste condition.
 - Hazardous waste facilities is not defined
- Heliports
 - Not defined, but has the following information: From 190.13.8
 - **Heliports.** A special exception may be granted to permit private/noncommercial heliports as an accessory to any approved use. The requirement for a special exception to be granted under this subsection shall not be applied to the use of helicopters, or any other type of aircraft, being used on a temporary basis for such purposes as emergency response, medical necessity, ongoing construction projects that have been permitted by the Town of Conway, or temporary (fewer than seven days) news media coverage. Before a special exception for a heliport can be granted by the Zoning Board of Adjustment, the following conditions must be met:
 - (a) The use of the site for a heliport shall not be offensive to the character of the neighborhood;
 - (b) The use of the site for a heliport shall not decrease abutting property values. Evidence supporting property values must be submitted by any party with an interest in the granting of the special exception from a creditable source that is knowledgeable of land evaluation and property values;
 - (c) Any site being considered to contain a heliport must be, at a minimum, five acres in size;
 - (d) Other site dimensions, above and beyond the overall acreage requirement listed above, shall be sufficient to provide safety areas suitable to meet all FAA-suggested dimensions and requirements;
 - (e) Before the Zoning Board of Adjustment considers any application for a special exception for this land use, all federal and state approvals which are

required must be obtained by the applicant, with copies of these approvals submitted as part of the request for special exception; and

- (f) A major site plan approval shall be required of the applicant from the Planning Board for the heliport, which is accessory to an approved business. As a condition for the granting of the special exception, no use of the heliport may be engaged by the applicant until all conditions of the special exception, including a major site plan approval, have been satisfied by the applicant.
- Home occupation
 - **HOME OCCUPATION-** An occupation or profession which is carried on in no more than 50% of the square footage of the total square footage, or 1,500 square feet, whichever is less, of a detached, single-family dwelling unit by the full-time, permanent occupant of the dwelling which does not change the character thereof. By way of illustration, home occupations shall include, but not be limited to: the preparation of foods such as breads, cookies and jellies; construction of birdhouses and other small-scale wood products; quilting; fishing lure assembly, etc. The term "home occupation" shall include both professional and personal services, provided that they meet the other criteria set forth in this chapter. Retail sales shall be allowed only in situations where the product sold is produced entirely on-site.
 - From 190.14.G
 - Restrictions regarding home occupations. A home occupation is considered accessory to a residential use and shall not occupy an area greater than 50% of the total floor area of the residential unit or 1,500 square feet, whichever is less. Home occupations are subject to the following provisions and restrictions:
 - (1) The home occupation shall be carried on by persons who live in the principal residential unit full time. Two employees living off-premises are permitted.
 - (2) The home occupation shall be carried on within the principal residential unit or an approved accessory structure.
 - (3) Exterior storage of commercial vehicles, equipment or materials or variation from the residential character of the principal residential unit shall not be permitted.
 - (4) The home occupation shall create no unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare or other nuisance or threat to the health of the abutters.
 - (5) Adequate off-street parking shall be provided.
 - (6) A home occupation shall not generate excessive traffic or traffic in greater volumes than would normally be expected in a residential neighborhood.
 - (7) A home occupation may display a sign conforming to Subsection F(10)(1) above.
 - (8) A change-of-use permit to operate a home occupation is required before startup of operation.
 - (9) Retail or wholesale sales are only permitted for those items raised or made on the premises.

- (10) A home occupation shall not be offensive to the character of the neighborhood or decrease abutting property values.
- SUBCATEGORIES OF HOME OCCUPATION:
 - Antique shops- no definition
 - Artist's/Musician's studios- no definition
 - Beautician/Barber- no definition
 - Custom clothing/linens- no definition
 - Day-cares (6 or fewer people)- no definition
 - Home offices- no definition
 - Tradesman/Craftsman workrooms
 - **TRADESMAN**- A workman in a skilled trade, such as a carpenter, plumber, electrician, carpet layer, shoe repairman, furniture restorer or cabinetmaker.
- Hospitals
 - No definition provided
- Hotels
 - **HOTEL/MOTEL**- A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration with sleeping rooms, each rental unit having its own private bathroom and a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals are served to its guests and other customers.
 - Per the Bed and Breakfast definition, Hotels/Motels do not have an owner living on site.
- Kennels
 - No definition, the following is from 190.13.11
 - Kennels. A special exception may be granted to permit kennels for transient (fewer than 30 days) housing of domestic animals or commercial breeding facilities for domestic animals, provided that:
 - (a) The minimum lot size is two acres.
 - (b) Animal housing areas, if indoors, shall be set back 40 feet from side and rear property lines and 60 feet from rights-of-way. Pastures/Outdoor exercise areas shall be set back 15 feet from any property line.
 - (c) A written plan for the disposal/removal of animal waste must be submitted along with the application requesting the special exception from the Zoning Board of Adjustment. This plan must be approved by the Board as a condition of the special exception approval, if granted.
 - (d) All animals shall be kept in an indoor area between the hours of 6:00 p.m. and 8:00 a.m.
- Lodging houses
 - Lodging is mentioned in the Bed and Breakfast definition as well as in the owner-occupied lodging house and/or owner-occupied boarding house definition below.
- Lodging houses, owner-occupied
 - **OWNER-OCCUPIED LODGING HOUSE AND/OR OWNER-OCCUPIED BOARDINGHOUSE**- Any place consisting of a room or group of rooms located on one

premises where regular, nontransient-type accommodations for sleeping or living purposes, together with meals, are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.

- Motels
 - **HOTEL/MOTEL-** A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration with sleeping rooms, each rental unit having its own private bathroom and a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals are served to its guests and other customers.
 - Per the Bed and Breakfast definition, Hotels/Motels do not have an owner living on site.
- Municipal services
 - **MUNICIPAL-** Of or relating to the internal affairs of a major political unit, having a chartered local self-government.
 - No definition of municipal services
- Municipal facilities
 - **MUNICIPAL-** Of or relating to the internal affairs of a major political unit, having a chartered local self-government.
 - No definition of municipal facilities
- Nursing homes
 - No definition, the following is from 190.13.K.1
 - **Nursing homes.** In order to protect existing property owners in the Residential/Agricultural District against a new use nearby which may be incompatible or undesirable but also allow for nursing homes with acceptable accessory commercial uses such as gift shops, flower shops and candy shops, which are restricted to on-premises facilities, the Zoning Board of Adjustment may grant a special exception for nursing homes in the Residential/Agricultural District, provided that:
 - (a) The nursing home development is architecturally compatible with the surrounding neighborhood;
 - (b) Traffic access to and from the development will not alter the character of the neighborhood;
 - (c) Lighting will be of such design as not to disturb the tranquility of the neighborhood;
 - (d) Outpatient and day-care facilities operate during reasonable hours;
 - (e) The facility will not operate as a crisis center for drug addiction, alcoholism or the mentally disturbed;
 - (f) Accessory commercial space on premises for the sole purpose of the nursing home occupants and employees will be operated and managed by the nursing home owners, and the same space will not be leased to outside businesses;
 - (g) The nursing home structure shall not exceed two stories in height above grade;
 - (h) The maximum density allowed is 16 beds per acre; and
 - (i) The land to be developed for such use contains no less than five acres.

- Offices
 - No definition
- Parking lot
 - No definition
 - **PARKING SPACE-** An off-street space for exclusive use as a parking area for one motor vehicle, with a minimum size of nine feet by 18 feet to conform to Chapter 110, Site Plan Review, of the Conway Code.
- Post offices
 - No definition but from 190.13.7:
 - **Post offices.** A special exception may be granted to permit a publicly or privately owned post office, provided that:
 - (a) Traffic access to and from the site will not alter the character of the abutting residential neighborhood;
 - (b) The post office is architecturally compatible with the surrounding residential district;
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use or decreased property values;
 - (d) No portion of the building may be used for any purpose other than a post office;
 - (e) At such time as the facility ceases to be used as a post office, the building and improvements shall either be razed or converted to a use allowed in the district; and
 - (f) The minimum dimensional lot requirements (lot size, setbacks, frontage, etc.) may be increased by either the Zoning Board of Adjustment or the Planning Board if it is found that the aforementioned criteria cannot be met using minimum dimensional requirements.
- Private educational facilities
 - **PRIVATE EDUCATIONAL FACILITY-** A non-government owned and operated facility used for purposes of teaching, studying, and learning.
 - 190.14.3
 - **Private educational facilities.** A special exception may be granted to permit private educational facilities, with or without accessory uses, provided that:
 - (a) Traffic access to and from the facility will not alter the character of the abutting residential neighborhood;
 - (b) The development is architecturally compatible with the height, scale, color and detail of the surrounding residential neighborhood; and
 - (c) The proposed facility will not adversely affect abutting properties by reason of undue light, noise, density of use, or other nuisance.
- Processing excavated materials
 - No definition
- Railroads, streets, bridges and driveways
 - No definition for railroad, bridge or driveway

- **STREET**- A state highway or a highway, road, avenue, lane and/or any other way which exists for vehicular travel, exclusive of a driveway serving not more than two adjacent lots or sites. The word "street" shall include the entire right-of-way.
- Recreation trails
 - No definition
- Residential
 - **Residential Dwelling Unit (NEW)** – A single unit providing a room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating for the exclusive use for one or more persons living as a household.
 - **RESIDENTIAL/DWELLING UNIT**- A single unit providing complete and independent living facilities for one or more persons living as a household, including provisions for living, sleeping, eating, cooking, and sanitation.
 - SUBSETS:
 - Single-family-
 - No definition
 - Two-family (duplex)-
 - **Duplex (NEW)** – A structure containing two separate residential dwelling units.
 - **MULTIRESIDENTIAL UNITS**- Units providing living quarters for two or more housekeeping units, such as, but not limited to, condominiums, clustering units, common-wall or row-type housing units, such as duplex or multihousekeeping units of the same nature, time-share arrangements in any type of housekeeping unit.
 - Multifamily (> 2 units)
 - **Multifamily (NEW)** - A building or portion thereof containing three or more residential units with separate cooking and toilet facilities for each dwelling on one individual lot.
 - **MULTIRESIDENTIAL UNITS**- Units providing living quarters for two or more housekeeping units, such as, but not limited to, condominiums, clustering units, common-wall or row-type housing units, such as duplex or multihousekeeping units of the same nature, time-share arrangements in any type of housekeeping unit.
 - ADUs/Accessory apartments
 - **ACCESSORY DWELLING UNIT (ADU)**- A dwelling unit accessory to a single-family dwelling, either attached or detached. Such accessory dwelling units shall be not less than 300 square feet and no greater than 800 square feet.
 - Mobile homes *update terminology in TPU
 - **Manufactured Home (NEW)** – Any structure, meeting the federal Manufactured Home Construction and Safety Standards Act, commonly known as the HUD Code, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site has at least 320 square feet

of habitable space, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing as defined here does not include presite built housing as defined in RSA 674:31-a.

- **MOBILE HOME**- A single, complete and livable prefabricated residential unit, suitable for transport on wheels on its own chassis, regardless of whether or not left on wheels, and requiring connection to water, power and sewage disposal systems for proper occupancy.
 - Mobile homes, accessory
 - No definition of accessory
 - Mobile homes, temporary
 - No definition of temporary
 - Mobile home parks
 - **MOBILE HOME PARK**- A parcel of land, under single ownership, with accommodations for two or more mobile homes, travel trailers or recreational vehicles in use as dwellings, regardless of whether or not a charge is made for such accommodations.
- Resort hotels
 - No definition, but per 190.13.6:
 - Resort hotel. A special exception may be granted for a resort hotel and those uses traditionally associated with this use, provided that:
 - (a) The resort hotel is constructed on and in conjunction with a commercial golf facility or with another recreational/resort use on the supporting acreage;
 - (b) The minimum lot size for the lot supporting the combined commercial golf course and resort hotel shall be 200 acres, exclusive of that acreage that falls within the Wetlands Conservation District;
 - (c) To the extent not previously satisfied in an approval for a commercial golf facility, the resort hotel and its site will comply with all of the conditions required for a commercial golf facility;
 - (d) In addition to the buffer area required for commercial golf courses, the resort hotel building(s) shall be set back no closer than 1,000 feet to the boundary line of any other unaffiliated lot or roadway (An "unaffiliated lot or roadway" is a lot or roadway not owned or controlled by the applicant or its principals.); and
 - (e) The number of guest rooms in the resort hotel will be dependent upon the acreage allocated to the combined facility/resort hotel lot, at a ratio of two acres per guest room.
- Restaurants
 - No definition
- Retail - no definition
 - < 3,000 square feet

- 3,000 - 5,000 square feet
- 5,000 - 50,000 square feet
- > 50,000 square feet
- Rooming houses
 - **Boarding House/Rooming House** – A dwelling operated as a business or on a not-for-profit basis providing rooms for rent on a daily, weekly, or other basis. The rooms do not include cooking facilities and thus are not individual dwelling units. Meals may or may not be provided by the owner/operator. Such rooms generally serve as the primary residence (of whatever duration) for the occupants though they may be available also as lodging for visitors.
- Rooming houses, owner-occupied
 - No specific definition
- Salt storage facilities
 - No definition
- Sexually oriented businesses
 - **ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS**
 - A. The opening or commencement of any sexually oriented business as a new business;
 - B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - C. The relocation of any sexually oriented business; or
 - D. The substantial enlargement of a sexually oriented business, which means the increase in floor areas occupied by the business by more than 25%, as the floor area exists on the date of the adoption of this chapter.
 - **SEXUALLY ORIENTED BUSINESS-** Any place of business in which any of the following activities are conducted:
 - **A. ADULT BOOKSTORE OR ADULT VIDEO STORE**
 - (1) A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, utilized for the display and sale of the following:
 - (a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes, slides, tapes, records, CD-ROMs, or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1; or
 - (b) Instrument, devices, or paraphernalia which are designed for use in connection with "sexual conduct" as defined in RSA 571-B:1, other than birth control devices.
 - (2) An adult bookstore or adult video store shall not be deemed to include a business selling or distributing books, magazines and periodicals which are a minor, incidental part of its principal stock-in-trade (meaning its inventory) so long as said business shall devote less than 15% of its total display, shelf, rack, table, stand or floor

area utilized for the sale and display of such items, including those items otherwise defined under Subsection A(1)(a) and (b) above. In establishing the percentages of utilization of any display, shelf, rack, table, stand or floor area hereunder, the burden of proof hereof shall rest on the business which claims an exemption from said definition above, which proof must be established by clear and convincing evidence.

- **B. ADULT MOTION PICTURE THEATER-** An establishment with a capacity of five or more persons, where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1, for observation by patrons. For the purposes of this chapter, "substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any fifty-six-consecutive-day period.
- **C. ADULT MOTION PICTURE ARCADE-** Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of materials which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.
- **D. ADULT DRIVE-IN THEATER-** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.
- **E. ADULT CABARET-** A nightclub, bar, restaurant, or similar establishment which, during a substantial portion of the total presentation time, features live performances which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1, and/or feature films, motion pictures, videocassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.
- **F. ADULT THEATER-** A theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which is distinguished or characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1. For the purposes of this chapter,

"substantial portion of the total presentation time" shall mean the presentation of films or shows described above for viewing on more than seven days within any fifty-six-consecutive-day period.

- **G. SEXUAL ENCOUNTER CENTER-** A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
 - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; and
 - (3) When the activities in Subsection G(1) and (2) above are characterized by an emphasis on activities which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in RSA 571-B:1.
- Signs
 - **SIGN-** Any device, fixture, placard, structure or attachment thereto that uses color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any person or entity, or to communicate information of any kind to the public, whether commercial or noncommercial. Any portion of any awning, either freestanding or attached to a structure, decorated with any sign element, either attached or part thereof, shall be considered a wall sign.
 - See also definitions listed for sign height, sign maintenance and sign message area
- Snow dump
 - No definition
- Solar
 - Residential solar
 - **RESIDENTIAL SOLAR-** Any ground-mounted or roof-mounted solar collection system primarily for on-site residential use, and consisting of one or more freestanding, ground- or roof-mounted, solar arrays or modules, or solar-related equipment, intended to primarily reduce on-site consumption of utility power and with a rated nameplate capacity of 10 kW AC or less per on site dwelling unit and that has 500 square feet or less of solar land coverage per on-site dwelling unit.
 - Community solar
 - **COMMUNITY SOLAR-** A use of land that consists of one or more freestanding, ground-mounted solar collection systems regardless of nameplate capacity that is up to 100 kW AC and that is less than one acre of solar land coverage.
 - Accessory agriculture solar
 - **ACCESSORY AGRICULTURE SOLAR-** Any ground-mounted or roof-mounted solar collection system designed to primarily reduce on-site consumption of utility power and without a limit to the rated nameplate capacity or solar land coverage provided the existing agricultural use is preserved at the time of installation.
 - Primary agriculture solar

- **OWNER-OCCUPIED TOURIST HOME AND/OR OWNER-OCCUPIED ROOMING HOUSE-** Any place consisting of a room or a group of rooms located on one premises where transient or semi-transient accommodations for sleeping or living purposes are offered for compensation, provided that the same is occupied and operated conjunctively by the owner, an individual person or persons, and shall not have more than four double-occupancy sleeping units.
- Utility systems
 - No definition of utility systems
 - **UTILITY POLE-** A structure which is owned by a government agency or utility company and which is used to support lines and other equipment carrying electricity or communications.
 - **UTILITY SOLAR-** A use of land that consists of one or more freestanding, ground-mounted solar collection systems regardless of nameplate capacity that is over 50 acres in solar land coverage and less than 30 MW in rated nameplate capacity.
- Visual/Performing arts, indoors
 - No definition
- Visual/Performing arts, outdoors
 - No definition
- Water storage/impoundment
 - 190.28.I.5 Water storage or impoundment: the construction of a water storage or impoundment
- Wetland/Stream crossings
 - 190.28.I.4 Wetland or stream crossing: the construction of a wetland or stream crossing for purposes of streets, roads and other access ways and utility right-of-way easements, including power lines and pipelines. A special exception for these uses may be granted if the following conditions are met:
 - (a) The use is essential to the productive use of land not in the district; and
 - (b) The use is so located and constructed as to minimize the detrimental impact upon the wetlands.
- Wholesale/Light industry
 - **WHOLESALE AND LIGHT INDUSTRY-** Any manufacturing, research, warehousing, storage or wholesale operation which is nonpolluting in terms of air, water and noise and which, in general, is not offensive to the character of the community.
- Wildlife refuges
 - No definition
- Wireless communication towers < 55 feet
 - 190.13.K.12 Wireless communication facilities. Wireless communication facilities may be allowed by special exception in the Residential/Agricultural District, on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that:
 - (a) Since the visual impact of wireless communication facilities can transcend Town lines, communities that may be visually affected shall be formally notified of applications for such proposed facilities as projects having regional impact.

- (b) The applicant must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town at large, including demonstration of realistic analysis of multiple sites, the need for the proposed height, and any impact on significant roadside viewpoints.
 - (c) Any wireless communication facility shall be designed to accommodate multiple providers of communication services and will only be approved under the condition that the primary developer of the facility will make the facility available upon reasonable terms, by lease or other legal instruments, to other wireless communication services.
 - (d) The Board of Adjustment may request detailed plans from the applicant and may, at the expense of the applicant, engage the services of professional consultants to review and comment on the proposal, and testimony of the applicants or their agents relating thereto.
 - (e) Major site plan approval must be obtained from the Planning Board.
 - Above language appears in multiple districts
- Wireless communication towers > 55 feet
 - 190.13.E.3 Wireless communication facilities may be allowed to exceed 55 feet in height by special exception on application to the Zoning Board of Adjustment as approved after a hearing with appropriate conditions imposed thereon, provided that the height is necessary to fulfill its function.
 - Above language appears in multiple districts
- Yard sales
 - 190.13.I Yard sales. Yard sales shall be permitted, provided that no one household holds sales on more than six days per calendar year.
 - Above language appears in multiple districts
 - No definition
- Insecticides
 - No definition
 - 190-27 (Shoreline Protection District)- K Water quality. In order to afford maximum protection to the lakes' water quality, the application of chemical fertilizer, *insecticides* or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.
 - 190-28 (Wetland and Watershed protection overlay) H Water quality. In order to afford maximum protection to water quality, the application of chemical fertilizer, *insecticides* or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.
- Chemical fertilizer
 - No definition
 - 190-27 (Shoreline Protection District)- K Water quality. In order to afford maximum protection to the lakes' water quality, the application of *chemical fertilizer*, *insecticides* or

other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.

- 190-28 (Wetland and Watershed protection overlay) H Water quality. In order to afford maximum protection to water quality, the application of *chemical fertilizer*, insecticides or other chemicals shall be prohibited in the district. In addition, drainage shall be controlled and treated as best as is reasonably possible for any construction or activity, or as a result of any land use, such as access paths. Local regulation of pesticide management is preempted by RSA 430:49.
- Undersized lots, buildable
 - 190-27, 190-28: Building on **undersized lots**. Building on pre-existing lots with insufficient acreage shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
 - (a) There is a state-approved septic system or connection to a municipal sewer.
 - (b) Any building to be constructed shall be configured and located on the lot to create the maximum shoreline setback practical. If appropriate, rear and sideline setbacks may be reduced by the Zoning Board of Adjustment by up to 50% to facilitate maximum shoreline protection.
 - (c) Clearing of lots may be limited by the Zoning Board of Adjustment as a condition of approval so as to prevent erosion runoff problems.
 - No definition provided
- Protective rip rap
 - 190-27, 190-28:
 - (1) Protective riprap. Riprap to protect shores from erosion shall be granted a special exception by the Zoning Board of Adjustment, provided that the following conditions are met:
 - (a) All required state and federal permits are obtained; and
 - (b) The shoreline is being eroded by action of the waters and the riprap will protect the shoreline from further erosion without enhancing erosion at another location on the shoreline.

Missing?

- Accessory
- Bar
- Bed and Breakfast
- Charitable gaming
- Distillery
- Modular construction
- Pub
- Temporary
- Townhouse
- Wedding venues

Do we even need a table of permitted uses?

Pros?

- New possible uses are by definition excluded until we have time to deal with them

Cons?

- Hard to account for all possible scenarios
- Redundancy in the code